

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

DOLORES LOZANO,

Plaintiff,

v.

BAYLOR UNIVERSITY,  
ART BRILES, *in his individual capacity*, and  
IAN McCRAW, *in his individual capacity*,

Defendants.

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6:16-CV-403-RP

**ORDER**

Before the Court are motions in limine and briefing from all parties:

1. Lozano's motion in limine, (Dkt. 254-8), and the responses, (Dkts. 261, 266, 270);
2. Baylor's motion in limine, (Dkt. 255-8), and the response, (Dkt. 267-3);
3. Briles's motion to exclude or, in the alternative, motion in limine, (Dkt. 253-9), and the response, (Dkt. 267-3);
4. McCaw's motion in limine, (Dkt. 251-8), and the response, (Dkt. 267-3).

Having reviewed the parties' thorough motions and the responses and the supporting documents and the relevant law, the Court orders as follows.

**I. LOZANO'S MOTION IN LIMINE**

Request Number	Ruling	Modifications, if any
1	Granted	
2	Denied	
3	Granted	
4	Denied	
5	Denied	
6	Granted	
7	Granted	
8	Granted	
9	Granted	

10	Granted	
11	Denied	
12	Denied	
13	Granted	
14	Denied	
15	Granted	
16	Granted	

## II. BAYLOR'S MOTION IN LIMINE

Request Number	Ruling	Modifications, if any
1	Denied	
2	Denied	
3	Denied	
4	Granted in part	Lozano may seek to introduce evidence related to whether a witness participated in and was cooperative with any third-party investigations and statements by Baylor regarding the NCAA investigation/infractions decision.
5	Granted in part	Lozano agrees not to elicit testimony or present evidence of the outcome of the third-party investigations identified by Baylor but may seek to introduce evidence related to whether a witness participated in and was cooperative with any third-party investigations and statements by Baylor regarding the outcomes of those investigations.
6	Denied	
7	Granted	
8	Denied	
9	Denied	
10	Granted	
11	Granted	
12	Granted	
13	Granted in part	Lozano may seek to introduce allegations by other women that potentially support her heightened risk and negligence claims.
14	Granted	
15	Granted in part	Lozano may not suggest a specific amount of damages for emotional distress or educational loss to the jury.
16	Granted in part	Lozano is not barred from seeking to introduce evidence that would support an

		award of punitive damages. Lozano may seek to introduce evidence that uses or references the term “institutional betrayal.”
17	Denied	
18	Granted in part	Lozano may not seek to introduce evidence relating to the cost of construction of Baylor’s football stadium, Baylor’s endowment, or coach and employee salaries to arouse the jurors’ passion, to punish Baylor, or to encourage assessment of damages on some basis other than that provided by law.
19	Granted	Applies to all parties.
20	Granted	Lozano may seek to introduce evidence relating to Baylor’s religious affiliation outside of the specific context addressed in Baylor’s request.
21	Granted	
22	Denied	
23	Denied	
24	Denied	
25	Denied	
26	Denied	
27	Granted	Applies to all parties.
28	Granted	Lozano may not reference the Golden Rule as it relates to issues of damages.
29	Granted	Applies to all parties.
30	Granted in part	Applies to all parties.  Lozano and Briles may seek to introduce Baylor’s Fourth Amended Answers to Briles Interrogatories and Exhibit A to the Interrogatories as exhibits.
31	Granted	Applies to all parties.
32	Granted	Applies to all parties.
33	Granted	
34	Granted in part	Lozano may ask the jury to “send a message” with respect to her request for punitive damages.
35	Agreed	Applies to all parties.
36	Denied	
37	Denied	
38	Denied	
39	Granted	

**III. BRILES'S MOTION IN LIMINE**

<b>Request Number</b>	<b>Ruling</b>	<b>Modifications, if any</b>
1	Denied	
2	Denied	
3	Denied	
4	Denied	
5	Denied	
6	Granted in part	Lozano may not seek to introduce testimony from undisclosed expert witnesses. Applies to all parties.
7	Granted	Applies to all parties.
8	Granted	
9	Granted	Applies to all parties.
10	Granted	Applies to all parties.
11	Granted	Applies to all parties.
12	Granted	Applies to all parties.
13	Granted	Applies to all parties.
14	Granted in part	Lozano may ask the jury to “send a message” with respect to her request for punitive damages.
15	Granted	Applies to all parties.
16	Denied	

**IV. MCCAWE'S MOTION IN LIMINE**

<b>Request Number</b>	<b>Ruling</b>	<b>Modifications, if any</b>
1	Denied	
2	Granted in part	Lozano may seek to introduce allegations by other women that potentially support her heightened risk and negligence claims.
3	Granted	Applies to all parties.
4	Granted	Applies to all parties.
5	Granted	Applies to all parties.
6	Granted	Applies to all parties.
7	Granted	Applies to all parties.
8	Granted	Applies to all parties.
9	Granted	Applies to all parties.
10	Granted in part	Lozano may not seek to introduce evidence relating to the cost of construction of Baylor's football stadium, Baylor's endowment, or coach and employee salaries to arouse the jurors' passion, to punish

		Baylor, or to encourage assessment of damages on some basis other than that provided by law.
11	Granted in part	Lozano may seek to introduce evidence related to whether a witness participated in and was cooperative with any third-party investigations and statements by Baylor regarding the NCAA investigation/infractions decision.
12	Denied	
13	Denied	
14	Denied	
15	Denied	
16	Granted	Applies to all parties.

## V. CONCLUSION

Accordingly, **IT IS ORDERED** that Lozano's motion in limine, (Dkt. 254-8), is **GRANTED IN PART AND DENIED IN PART**.

**IT IS FURTHER ORDERED** that Baylor's motion in limine, (Dkt. 255-8), is **GRANTED IN PART AND DENIED IN PART**.

**IT IS FURTHER ORDERED** that Briles's motion to exclude or, in the alternative, motion in limine, (Dkt. 253-9), is **GRANTED IN PART AND DENIED IN PART**.

**IT IS FURTHER ORDERED** that McCaw's motion in limine, (Dkt. 251-8), is **GRANTED IN PART AND DENIED IN PART**.

These rulings are subject to the reurging of objections by the parties.

**IT IS FURTHER ORDERED** that the parties shall meaningfully meet and confer to reach agreements and resolve their remaining evidentiary objections and file a joint report **on or before October 3, 2023 at 10:00 a.m.** providing at least the following: (1) any objections to this order on the motions in limine that the parties want to preserve for the record and (2) a summary or table of any evidentiary objections that the parties are unable to resolve and remain for the Court's consideration at the final pretrial conference on October 4, 2023.

**IT IS FINALLY ORDERED** that, for the purposes of preparing their joint report on any remaining evidentiary objections and for the final pretrial conference, the parties shall focus on a limited number of objections to exhibits that require a ruling before trial and are not resolved by this order or by agreement. Other objections will be carried to trial. Objections to deposition designations will be decided during the trial. The parties are expected to have the technical wherewithal to expediently present evidence to the jury even if the Court sustains or overrules an objection to the evidence. For example, if the Court sustains an objection to a portion of a deposition, the presenting party shall expediently present the deposition to the jury without the prohibited content.

The Court continues to be encouraged by the parties' ability to reach agreements and reduce their number of objections.

**SIGNED** on September 29, 2023.

A handwritten signature in blue ink, appearing to read "R. Pitman", written over a horizontal line.

ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE